

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.W.P.No.296 of 1993

Date of Decision : 12.12.2007

V.S.Yadav

.....Petitioner

versus

Union of India and others

.....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

HON'BLE MR.JUSTICE MOHINDER PAL

Present: Shri Ashok Singla, Advocate, for the petitioner.  
Shri Ashwani Bansal, Advocate, for the respondent.

-:-

JUDGMENT

HEMANT GUPTA, J.

The challenge in the present writ petition is to the promotion of respondent Nos.3 & 4 as Commandants in the Central Reserve Police Force, on the ground that the petitioner is senior to the said respondents, whereas his juniors have been promoted.

It is the case of the petitioner that he was selected as Deputy Superintendent of Police in Central Reserve Police Force and joined on 1.12.1971. He was promoted as Assistant Commandant in the year 1983 and assigned seniority at Sr.No.424 in the revised gradation list of the Assistant Commandants circulated vide letter dated 24.9.1986, whereas S/Shri R.S.Virk, J.S.Gahlaut and A.K.Narula were placed below the petitioner and were assigned seniority at Sr.Nos.427, 428 and 429 respectively.

The meeting of the Departmental Promotion Committee was held in May, 1987, 1990 and 1991 for considering the claim of the eligible candidates for promotion to the post of Commandant. The case of the

petitioner was considered by the Departmental Promotion Committee in the year 1987 and in the year 1990 but the petitioner could not be selected.

The dispute in the present writ petition is regarding promotion made consequent to the recommendations of the Departmental Promotion Committee in its meeting held on 3.9.1992. The Departmental Promotion Committee recommended the name of Shri J.S.Gahlaut-respondent No.2 and Shri A.K.Narula-respondent No.3 for promotion, who were juniors to the petitioner and, thus, the petitioner invoked the writ jurisdiction of this Court.

It is pointed out that the post of the Commandant is required to be filled up by promotion from the Assistant Commandants under Rule 105 of the Central Reserve Police Force Rules, 1955. The criteria for promotion has been circulated on 10.3.1989. The reference of such circular has been made in para 9 of the present writ petition. The relevant criteria reads as under:-

“2.3.1 - The list of candidates considered by the DPC and the overall grading assigned to each candidate, would form the basis for preparation of the panel for promotion by the DPC. The following principles should be observed in the preparation of the panel:-

- i)      xx                      xx                      xx                      xx
- ii)    In respect of all posts which are in the level of Rs.3700-5000 and above, the bench mark grade should be 'Very Good'. However, officers who are graded as 'Outstanding' would rank on bloc senior to those who are graded as 'Very Good' and placed in the select panel accordingly upto the number of vacancies,

officers with same grading maintaining their interse seniority in the feeder post.

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|------|----|----|----|------|
| iii) | xx | xx | xx | xx   |
| iv)  | xx | xx | xx | xx.” |

It is the case of the petitioner that the performance of the petitioner for the last five years was excellent and his Annual Confidential Reports for the last five years could not have been less than Very Good. Therefore, he could not have been ignored from the promotion. It is also pointed out that the petitioner has never been communicated any remarks that he is not fit for promotion or any adverse comments are against him during the last five years and thus, the action of the respondents in promoting his juniors is illegal.

In reply, it has been pointed out that the petitioner was considered for promotion to the rank of Commandant by the Departmental Promotion Committee in its meeting convened on 3.9.1992, but he could not be promoted as he could not get the grade required for promotion to the rank of Commandant based on his Confidential Report Dossier. The juniors to the petitioner were promoted as they obtained the requisite grading required for promotion to the rank of Commandant under the Instructions/Rules governing the promotion of superior officers in the Force.

This Court, on 18.5.2006, directed the respondents to produce the record of the relevant period. Such record has been produced in the Court today. Appendix-B is the criteria followed by the Departmental Promotion Committee in its meeting convened on 3.9.1992. As per the said criteria, the Annual Confidential Reports for the period w.e.f. 1987-88 to

1991-92 have been taken into account for assessment. The parameters adopted by the Departmental Promotion Committee for assessing the performance of the officers are reproduced as under:-

“The following parameters have been adopted by the DPC held on 3.9.1992 for assessing the performance of the officers for their promotion to the rank of Commandant (NSG) in the Central Reserve Police Force:-

- i) ACRs for the period from 1987-88 to 1991-92 have been taken into account for assessment. In cases where the ACRs for the above period were not available equal number of ACRs for the period prior to 1987-88 have also been taken into account.
- ii) The parameters followed for categorization of the officers were as under:-

- a) Outstanding

At least four of the ACRs for the last five years including the ACR for the latest year and no adverse entry in the CRs for the other years under consideration.

- b) Very Good

At least 3 of the last 5 ACRs, remaining considered as Good by the DPC and no adverse entry in the CRs for the other years under consideration.

- c) Good

At least three of the last five ACRs including the ACR for the latest year and no adverse entry in the CRs for the other years under consideration.

- d) Adverse

General performance has been routine as average and he has not more than two 'Very Good' in the last five ACRs and no adverse entry in the CRs for the other years under consideration.

e) Unfit

If the Officer's overall reports are lacking any positive merit and his ACRs, particularly in the last five years, reflect adversely on his suitability for promotion or his ACRs contain orders of penalty for acts of omissions.”

On the basis of such criteria, the Departmental Promotion Committee did not find any officer having grading 'Outstanding', but found 31 officers with the grading 'Very Good'. J.S.Gahlaut and A.K.Narula are the officers having the grading 'Very Good' at Sr.Nos.26 and 27 respectively. There are 11 officers having the grading 'Good' and name of the petitioner is at Sr.No.9 in that grading. Since the private respondents have been graded Very Good i.e., better than the petitioner, therefore, the said respondents have been promoted, though juniors to the petitioner.

As per the summary of the Annual Confidential Reports, produced by the respondents, the petitioner has got 'Very Good' reports for the years 1988-89 and 'Good' report for the period 1.4.1989 to 11.11.1989, 21.6.1991 to 25.10.1991 and 26.10.1991 to 31.3.1992. For the remaining period, either the report is not recorded or it less then Good. Whereas, A.K.Narula-respondent No.4 has got 'Very Good' reports for the years 1988-89, 1989-90, 1990-91, 1991-92 and he has got 'Good' report for the year 1987-88. J.S.Gahlaut-respondent No.3 has got 'Very Good' remarks for the years 1987-88, 1988-89, 1989-90 and 1991-91.

In view the comparative Annual Confidential Reports, it has been rightly found that respondent Nos.3 & 4 have better grading than the petitioner. Thus, we do not find any illegality or irregularity in the

promotion of the said respondents as Commandants.

Consequently, we do not find any merit in the present writ petition. The same is dismissed with no order as to costs.

**(HEMANT GUPTA)**  
**JUDGE**

12-12-2007  
*\*mohinder*

**(MOHINDER PAL)**  
**JUDGE**